

**REMARKS**

1. The Examiner has rejected claims 1-128 under the judicially created doctrine of double patenting over claims 1-56 of co-pending Application No. 09/575,172 (the co-pending application).

2. The Applicant notes the following paragraph from MPEP s.804, paragraph 8.32 under the heading "*Obviousness-Type*":

*"Any obviousness-type double patenting rejection should make clear:*

*(A) The differences between the inventions defined by the conflicting claims - a claim in the patent compared to a claim in the application; and*

*(B) The reasons why a person of ordinary skill in the art would conclude that the invention defined in the claim in issue is an obvious variation of the invention defined in a claim in the patent"*(My emphasis added)

3. The Examiner has identified only one difference between each of the compared claims, when in each case there are several. He has therefore not made clear the "*differences between the inventions defined by the conflicting claims.*" Furthermore, since he has ignored the additional differences identified in our previous response (and reiterated herein) he has not stated the reasons why he believes that "*a person of ordinary skill in the art would conclude that the invention defined in the claim in issue is an obvious variation of the invention defined in a claim in the patent.*"

4. The Applicant submits that the conflicting claims have at least the following differences:

4.1 In addition to the feature identified by the Examiner, the applicant notes that claims 1 and 109 of the present application claim the following subject matter not claimed in claim 1 of the co-pending application,:

- (a) "*a sensing device which: contains identifying data indicative of an identity of the user*";
- (b) "*in the computer system... receiving the identifying data from the sensing device*";
- (c) "*in the computer system... identifying user data from the identifying data*"; and

(d) *"in the computer system... operating the computer software at least partly in reliance on the user data."*

The Examiner is invited to suggest why he believes that a person of ordinary skill in the art would conclude that each of these features are obvious variations of the invention defined in claim 1 of the co-pending application.

4.2. In addition to the feature identified by the Examiner, the applicant notes that claims 2 and 110 of the present application claims the following subject matter not claimed in claim 9 of the co-pending application:

(a) *"in the computer system... receiving identifying data from a sensing device, wherein the sensing device contains the identifying data and the identifying data is indicative of an identity of the user";*

(b) *"identifying user data from the identifying data";* and

(c) *"operating the computer software at least partly in reliance on the user data."*

The Examiner is invited to suggest why he believes that a person of ordinary skill in the art would conclude that each of these features are obvious variations of the invention defined in claim 9 of the co-pending application.

4.3. In addition to the feature identified by the Examiner, the applicant notes that claim 53 of the present application claims the following subject matter not claimed in claim 29 of the co-pending application:

(a) *"a sensing device which: contains identifying data indicative of an identity of the user";*

(b) *"in the computer system... receive the identifying data from the sensing device";*

(c) *"identify user data from the identifying data";* and

(d) *"operate the computer software at least partly in reliance on the user data."*

The Examiner is invited to suggest why he believes that a person of ordinary skill in the art would conclude that each of these features are obvious variations of the invention defined in claim 29 of the co-pending application.

4.4. In addition to the feature identified by the Examiner, the applicant notes that claim

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54 of the present application claims the following subject matter not claimed in claim 37 of the co-pending application:

- (a) *"in the computer system... receive identifying data from a sensing device, the identifying data being: indicative of an identity of the user; and contained in the sensing device";*
- (b) *"identify user data from the identifying data";* and
- (c) *"operate the computer software at least partly in reliance on the user data."*

The Examiner is invited to suggest why he believes that a person of ordinary skill in the art would conclude that each of these features are obvious variations of the invention defined in claim 37 of the co-pending application.

5. The Examiner has suggested that the statement in claims 2 and 110 of the present application: *"the sensing device contains the identifying data and the identifying data is indicative of an identity of the user"* corresponds to and serves the same purpose as the statement in claim 9 of the co-pending application: *"a sensing device which ... senses indicating data indicative of the identity of the interface surface and generates movement data indicative of the sensing device's movement relative to the interface surface."*

In response, the Applicant submits that these two statements speak of three different types of data:

- (a) *"identifying data"* which is indicative of *"an identity of the user"*;
- (b) *"indicating data"* which is indicative of *"the identity of the interface surface"*; and
- (c) *"movement data"* which is indicative of *"the sensing device's movement relative to the interface surface."*

The Applicant submits that the two statements do not correspond to one another and do not serve the same purpose. The Examiner is invited to suggest why he believes that a person of ordinary skill in the art would conclude that these two sets of features are obvious variations of one another.

6. The Examiner has suggested that the statement in claim 53 of the present application: *"operate the computer software at least partly in reliance on the user data"* corresponds to and serves the same purpose as the statement in claim 29 of the co-pending

application: *"operate the computer software at least partly in reliance on the movement data."*

In response, the Applicant submits that these two statements speak of two different types of data:

- (a) *"user data"* which is identified from the *"identifying data"* which is indicative of *"an identity of the user"* and which is contained in the sensing device; and
- (b) *"movement data"* which is indicative of *"the sensing device's movement relative to the interface surface."*

The user data therefore relates to the identity of the user, whereas the movement data relates to the movement of the sensing device relative to the interface surface. The two types of data are therefore quite distinct. Accordingly, the Applicant submits that the two statements do not correspond to one another and do not serve the same purpose. The Examiner is invited to suggest why he believes that a person of ordinary skill in the art would conclude that these two sets of features are obvious variations of one another.

7. The Examiner has suggested that the statement in claim 54 of the present application: *"identify user data from the identifying data"* corresponds to and serves the same purpose as the statement in claim 37 of the co-pending application: *"perform written gesture recognition in relation to at least some of the movement data."*

In response, the Applicant submits that these two statements speak of two different functions. In the present application, the user data is derived from the identifying data which is contained in the sensing device. In contrast, the gesture recognition in the co-pending application is performed with reference to the movement data which is indicative of the sensing device's movement relative to the interface surface. The identifying data and the movement data are quite distinct types of information. The task of performing written gesture recognition is quite a different task from identifying user data from the identifying data.

The Applicant submits that the two statements do not correspond to one another and do not serve the same purpose. The Examiner is invited to suggest why he believes that a person of ordinary skill in the art would conclude that these two sets of features are obvious variations of one another.

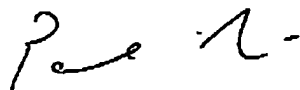
8. The Applicant submits that independent claims 1, 2, 53, 54, 109 and 110 are different from claims 1, 9, 29 and 37 of the co-pending application in several ways. The Applicant further submits that those differences are such that a person of ordinary skill in the art would not conclude that the claimed invention is an obvious variation of the invention defined in the co-pending application. Similar comments apply in relation to the dependent claims of the present application. In light of these arguments, the Applicant requests that the Examiner reconsider his double patenting objection and allow this application to proceed to acceptance.

**CONCLUSION**

It is respectfully submitted that all of the Examiner's objections have been successfully traversed. Accordingly, it is submitted that the application is now in condition for allowance. Reconsideration and allowance of the application is courteously solicited.

Very respectfully,

Applicant:



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